IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

Crl.MC.No. 3304 of 2007()

CP.96/2007 of JUDL.MAGISTRATE OF FIRST CLASS COURT-I, PATHANAMTHITTA
CRIME NO.658/07 OF PATANAM HILLS POLICE STATION

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PETITIONER/ACCUSED IN C.P.NO.96/07:

LEELA, AGED 31 YEARS,
W/O.CHANDRAN, VADKKY, VARYAPURAM,
VALLIKKODE VILLAGE,
PATHANAMTHITTA DIST.

BY ADV. SRI.AJITH MURALI

RESPONDENT/COMPLAINANT IN C.P.NO.96/07:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3304 of 2007

Dated this the 29th day of October 2007

O R D E R

The petitioner, a widow, faces indictment in a prosecution under Section 8 of the Kerala Abkari Act. Investigation is complete. Final report has already been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioner has not appeared personally before the investigating officer or the learned Magistrate so far. Consequently, coercive processes have been issued against the petitioner. Initially, only a summons was issued by the learned Magistrate, after registering the committal proceedings, it is submitted. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. Her absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But she apprehends that her application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. She, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when she appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which she could not earlier appear before the learned

Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. Needless to say, the learned Magistrate having chosen to issue summons at the first instance must consider the application for bail to be filed by the petitioner on merits and in accordance with law in the light of the dictum in Sukumari v. State of Kerala [2001(1) KLT 22] expeditiously.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007